HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 1213 (S/B) of 2002

Wajid Ali
S/o Abdul Masid
R/o Indian Red Cross Society
Maternity and Welfare Sub Centre
Tripura Devi District Pithoragarh. …..Petitioner

Vs

Secretary General, The Indian
Red Cross Society, 1-Red Cross
New Delhi and others. …..Respondents

Counsel for the petitioner Sh.Nand Prasad
Counsel for the respondent Sh. B.S. Khanka

Dated:- 16-4-2004

Hon'ble Rajesh Tandon J.

Heard Sh. Nand Prasad learned counsel for the petitioner and Sh. B.S. Khanka for the respondent.

By the present writ petition the petitioner has prayed for the issue of a writ, order or direction in the nature of mandamus to the respondents to regularize the service of the petitioner and till then pay him the minimum wages as per rules and also to take no action for his removal from his present post in the interest of justice.

Brief facts giving rise to the present writ petition are that the Indian Red Cross Society has been constituted under the Indian Red Cross Society Act, 1920(Act No. 15 of 1920). The President of India

is Ex-officio President of this society and the Union Health Minister is the chairman of the Executive body of the Indian Red Cross Society.

The Indian Red Cross Society runs and manages various charitable Hospitals all over India specially at the backward and tribal areas. There is a Multi purpose Welfare Hospital also known previously as maternity and child welfare center at Baluwakot District Pithoragarh which is run and managed by the local unit of the India Red Cross Society. The respondent No. 2 is the Incharge of the local hospital at Baluwakot District Pithoragar.

According to the petitioner he was appointed as Peon cum Chowkidar in the Indian Red Cross maternity and Child Welfare Centre Rasiabadag District Pithoragarh vide the letter dt. 27-9-95 of the respondent No. 1 on the recommendation of the Director of the Society after obtaining the approval of the respondent No.1 on daily wage basis at the rate of Rs.30/- per day. The petitioner has worked for more than 240 days in the years 1996,1997, 1998, 1999, 2000, 2001 without break and he is still working as Peon cum Chowkidar.

The petitioner has made a representation to the respondent for his regularization in service with no result. The last representation was made in the month of 6-April 2002.

It has been informed that for the same regularization the petitioner has already availed the remedy of regularization before the labour court and as such the writ petition is not maintainable.

However, the labour court is directed to expedite the disposal of the reference within a period of one month after filing of the certified copy of the order. Further the writ petition Is not maintainable against the respondent no. 2, as the

respondent no. 2 is not covered under Article 12 of the constitution of India. On that ground also the labour court has jurisdiction to decide the matter.

Subject to the aforesaid observations, the writ petition is dismissed. There will be no order as to costs.

(RAJESH TANDON J.)

Dated: - 16-4-2004

M.K.